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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

GABRIEL COWAN METCALF,

Defendant.

Case No. MJ-23-130-BLG-TJC

**MOTION FOR
DETENTION HEARING**

COMES NOW the Defendant, Gabriel Cowan Metcalf, by and through his attorney of record, RUSSELL A. HART, and the FEDERAL DEFENDERS OF MONTANA, and hereby move this honorable Court to set a Detention Hearing in this matter.

Mr. Metcalf is currently in custody at the Yellowstone County Detention Facility in Billings, Montana. A detention hearing was held in this matter on August 24, 2023. Following that hearing, the Court issued an Order of Detention Pending

Trial whereby it found by clear and convincing evidence that no condition or combination of conditions of release will reasonably assure the safety of any other person in the community. (ECF – 11). The reason for detention identified in the Order was Metcalf’s “[h]istory of violence or use of weapons”. *Id.*

Section 3142(f)(2) of Chapter 18 United States Code provides “[t]he hearing may be reopened, before or after a determination by the judicial officer, at any time before trial if the judicial officer finds that information exists that was not known to the movant at the time of the hearing and that has a material bearing on the issue whether there are conditions of release that will reasonably assure the appearance of such person as required and the safety of any other person and the community.”

Mr. Metcalf has filed a report under seal containing professional observations concerning Mr. Metcalf. (ECF – 15). The professional observations contained within that report constitute information that was not known to Mr. Metcalf at the August 24, 2023 hearing and which materially bears upon the issue whether any conditions of release will reasonably assure the safety of the community if Mr. Metcalf were released.

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The undersigned has contacted Assistant United States Attorney Thomas Godfrey who indicated he objects to the Court setting a Detention Hearing.

RESPECTFULLY SUBMITTED this 8th day of September, 2023

/s/ Russell A. Hart

RUSSELL A. HART

Federal Defenders of Montana
Counsel for Defendant

CERTIFICATE OF SERVICE
L.R.5.2(b)

I hereby certify that on September 8, 2023, a copy of the foregoing document was served on the following persons by the following means:

- 1, 2 CM-EDF
- Hand Delivery
- 3 Mail
- Overnight Delivery Service
- Fax
- E-Mail

- 1. CLERK, UNITED STATES DISTRICT COURT
- 2. THOMAS K. GODFREY
Assistant United States Attorney
United States Attorney's Office
2602 2nd Avenue North, Suite 3200
Billings, MT 59101
Counsel for the United States of America
- 3. GABRIEL COWAN METCALF
Defendant

/s/ Russell A. Hart

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